

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

MARTIN E. LUJAN,

Plaintiff,

vs.

Civ. No. 16-148 KG/KBM

WAL-MART STORES, INC.,

Defendant.

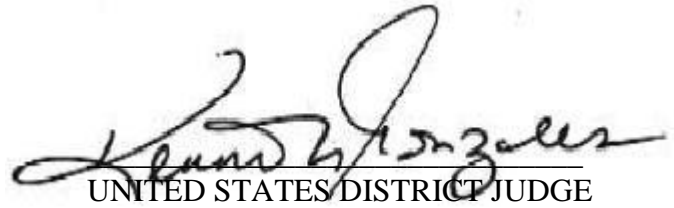
FINAL ORDER OF DISMISSAL

This matter comes before the Court upon Defendant's Motion to Dismiss for Failure to State a Claim Under Fed. R. Civ. P. 12(b)(6) (Motion to Dismiss), filed on March 14, 2016. (Doc. 10). Plaintiff responded on March 25, 2016, and Defendant replied on April 14, 2016. (Docs. 11 and 13). Plaintiff subsequently alerted the Court to supplemental authority: *Lobato v. State of New Mexico Environment Department*, 2012-NMSC-002, 267 P.3d 65. The Court then held a hearing on the Motion to Dismiss on July 29, 2016. Plaintiff was present at the hearing along with his attorney, Carlos Quinones. Charlotte Lamont represented Defendant.

Having considered the Motion to Dismiss, the accompanying briefing, the *Lobato* case, and the oral argument of counsel, and for the reasons stated on the record at the July 29, 2016, hearing, the Court HEREBY:

1. denies Plaintiff's request to certify to the New Mexico Supreme Court the question of whether language in the June 24, 2015, Order of Nondetermination allowed Plaintiff to file his notice of appeal within 90 days of the receipt of the Order of Nondetermination;
2. grants Defendant's Motion to Dismiss for Failure to State a Claim Under Fed. R. Civ. P. 12(b)(6) (Doc. 10); and

3. dismisses this lawsuit with prejudice.



UNITED STATES DISTRICT JUDGE